

Claimant was injured at work on June 24, 1994 when struck in the ankle by a two (2) wheel dolly. She was examined and treated by Dr. Michelle Klaumann. Dr. Klaumann released her to return to work on September 7, 1994. Claimant then worked for three (3) months without a problem. Claimant began experiencing additional ankle pain in December of 1994. Claimant again saw Dr. Klaumann. At that time Dr. Klaumann indicated consideration should be given to the possibility that claimant's condition has a rheumatologic cause.

Dr. Klaumann referred claimant to Dr. Timothy Shaver. As of March 24, 1995 Dr. Shaver indicated he could not give claimant a clear diagnosis. He recommended a triple-phase bone scan to help clarify the diagnosis. He suggested consideration be given to the possibility that claimant suffers from reflex sympathetic dystrophy. Upon review of the triple-phase bone scan, Dr. Shaver indicated there is no "hard" evidence of reflex sympathetic dystrophy but still considered this a possibility. He indicated that if it were reflex sympathetic dystrophy it would not be "unreasonable" to conclude that her problem was job related.

After reviewing the above-described medical evidence at the Preliminary Hearing held on May 23, 1995, the Administrative Law Judge ordered an independent medical examination to be performed by Dr. Naomi Shields. Dr. Shields reviewed the records and history, including the triple-phase bone scan. From her evaluation she concluded more likely than not claimant suffers from a monarticular rheumatologic process. Dr. Shields indicated that she doubted reflex sympathetic dystrophy because the bone scans were normal. She also concludes that claimant's ankle pain is not related to her previous work-related injury. In spite of Dr. Shields' conclusions, the Administrative Law Judge ordered preliminary benefits in the form of further treatment by Dr. Shaver.

The Appeals Board disagrees with the conclusion reached by the Administrative Law Judge. While there certainly was evidence to support the decision by the Administrative Law Judge, the Appeals Board considers the preponderance of the credible evidence to support a different conclusion. The Appeals Board finds that a preponderance of the credible evidence supports the conclusion that claimant's symptoms in December and thereafter resulted from a rheumatologic condition which is not work related.

WHEREFORE, the Appeals Board find that the Preliminary Hearing Order entered by Administrative Law Judge Nelsonna Potts Barnes on August 23, 1995 should be, and the same is hereby, reversed.

IT IS SO ORDERED.

Dated this ____ day of November 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Vaughn Burkholder, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director